

**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW JERSEY**

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UNITED STATES, :  
Plaintiff, :  
v. :  
DWAYNE BAXTON, :  
Defendant. :  
:

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**ORDER**

**GREENAWAY, JR., U.S.C.J.\***

This matter comes before this Court on the letter (Docket Entry No. 21) of defendant, Dwayne Baxton (“Baxton” or “Defendant”), seeking to extend the time to file a notice of appeal. Reading this letter as broadly as possible, as this Court must when addressing claims of pro se litigants,<sup>1</sup> Haines v. Kerner, 404 U.S. 519, 520-21 (1972); United States v. Day, 969 F.2d 39, 42 (3d Cir. 1992), this Court concludes that Baxton seeks to extend the time within which he may file a notice of appeal. For the reasons set forth below, this request will be denied.

FED. R. APP. P. 4(b)(1) provides that “a defendant’s notice of appeal must be filed in the district court within 14 days after the later of: (i) the entry of either the judgment or the order being appealed; or (ii) the filing of the government’s notice of appeal.” Pursuant to FED. R. APP.

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\* Sitting by designation on the District Court.

<sup>1</sup> Although the docket sheet indicates Baxton is represented by counsel, for purposes of the present request, this Court, in an abundance of caution, will treat him as if he were proceeding pro se, and interpret his request as broadly as possible.

P. 4(b)(4), that time may be extended “for a period of 30 days from the expiration of the time otherwise prescribed by” FED. R. APP. P. 4(b), “[u]pon a finding of excusable neglect or good cause.”

Here, Defendant submitted his letter request five months after his sentence was imposed. As such, his request is untimely. Therefore,

IT IS, this 24<sup>th</sup> day of March, 2010,

ORDERED that the request for extension of time to file an notice of appeal (Docket Entry No. 21) is DENIED; and it is further

ORDERED that a copy of this Order be served on all parties within seven (7) days of the date of entry of this Order.

S/Joseph A. Greenaway, Jr.  
JOSEPH A. GREENAWAY, JR., U.S.C.J.  
(Sitting by designation on the District Court)